

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NATHAN JAMES MASSARELLO,

Plaintiff,

v.

**POWER HOME REMODELING
GROUP, LLC,**

Defendant.

Judge Robert J. White

Mag. Judge Curtis Ivy, Jr.

Case No. 24-CV-12480

**JOINT MOTION FOR STIPULATED ORDER STRIKING
PLAINTIFF’S REQUEST FOR TREBLE DAMAGES**

Defendant Power Home Remodeling Group, LLC (“Defendant” or “PHRG”) and Plaintiff Nathan James Massarello (“Plaintiff” or “Massarello”) (collectively, “Parties”), hereby jointly move this Court for entry of a Stipulated Order striking Plaintiff’s claim for treble damages. In support of their joint motion, the Parties state as follows:

1. On September 25, 2024, Plaintiff filed his First Amended Class Action Complaint (“Amended Complaint”) which requested, in relevant part, an order “[a]warding Plaintiff and the members of the class treble damages under 47 U.S.C. § 227(b)(3).” (ECF No. 5, PageID. 12.)

2. On October 8, 2024, the Parties conducted their E.D. Mich. L.R. 7.1(a)(1) conference regarding PHRG’s Motion to Dismiss the Amended Complaint

or in the Alternative to Strike Plaintiff Nathan Massarello's Request for Treble Damages. At that conference, the Parties agreed that Plaintiff would voluntarily withdraw his request for treble damages under 47 U.S.C. § 227(b)(3).

3. Under E.D. Mich. L.R. 7.1(a)(1), "[i]f the movant obtains concurrence, the parties or other persons involved may make the subject matter of the contemplated motion or request a matter of record by stipulated order." The use of the term "may" where it appears in this Local Rule leaves such matters to the "discretion of the trial court." *See, e.g., GE Com. Fin. Bus. v. Binyan Mich. LLC*, No. 06-CV-14070, 2007 WL 1017002, at *4-5 (E.D. Mich. Mar. 29, 2007) (interpreting another use of the term "may" within the Local Rule to be discretionary).

4. Good cause to strike Plaintiff's request for treble damages exists here, based on the Parties' agreement, because it will narrow the scope of disputed issues currently pending before the Court and avoid briefing and decision on Defendant's motion to strike. (ECF No. 9, PageID.15-19.)

WHEREFORE, the Parties hereby stipulate and agree, subject to approval by the Court, to strike Plaintiff Nathan Massarello's claim for treble damages in the Amended Complaint in accordance with the contemporaneously submitted proposed order through the Utilities function in CM/ECF.

/s/ Anthony I. Paronich

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POWER HOME REMODELING
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Case No. 24-CV-12480

Honorable Robert J. White

BRIEF FORMAT CERTIFICATION FORM

I, Gerald L. Maatman, Jr. certify that the foregoing brief complies with Eastern District of Michigan Local Rules 5.1(a), 5.1.1, and 7.1, and Judge White's Case Management Requirements, including the following (click each box to indicate compliance):

- ☒ the brief contains a statement regarding concurrence, *see* LR 7.1(a);
- ☒ the brief, including footnotes, uses 14-point font, *see* LR 5.1(a)(3);
- ☒ the brief contains minimal footnotes and, in all events, no more than 10, *see* Case Management Requirements § III.A;
- ☒ the brief and all exhibits are filed in searchable PDF format, *see* Case Management Requirements § III.A;
- ☒ except for footnotes and necessary block quotes, the brief is double spaced (not "Exactly 28 pt" spaced) with one-inch margins, *see* LR 5.1(a)(2);
- ☒ deposition transcripts have been produced in their entirety (not in minuscrit), *see* Case Management Requirements § III.A;
- ☒ if the brief and exhibits total 50 pages or more, I will mail to chambers a courtesy copy with ECF headers, *see* Case Management Requirements § III.B.

I also acknowledge that my brief will be stricken from the docket if the Court later finds that these requirements are not met.

/s/ Gerald L. Maatman, Jr. _____

Gerald L. Maatman, Jr.

Attorney for Defendant Power Home Remodeling Group, LLC

CERTIFICATE OF SERVICE

I, Gerald L. Maatman, Jr., do hereby certify that a true and correct copy of the forgoing document has been furnished by the Court's CM/ECF filing system on this 10th day of October 2024 to the following individuals:

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Dated: October 10, 2024

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